Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Battin | Analyst: Kristina North | Bill Number: AB 864

Related Bills: None | Telephone: 845-6978 | Introduced Date: 2/24/99

Attorney: Doug Bramhall | Sponsor:

SUBJECT: Long-Term Care Credit

SUMMARY

Under the Personal Income Tax Law (PITL), this bill would allow a credit in an amount equal to an unspecified percentage of the amount paid or incurred by a taxpayer for the long-term care of a family member of the taxpayer.

EFFECTIVE DATE

This bill would be effective for taxable years beginning on or after January 1, 1999.

SPECIFIC FINDINGS

Current federal and state laws allow a tax deduction for medical expenses, including qualified long-term care expenses prescribed by a licensed care professional for a chronically ill individual or certain premiums for long-term care insurance. These expenses are deductible only to the extent they exceed 7.5% of the taxpayer's adjusted gross income (AGI).

Current federal and state tax law define "dependent" as the taxpayer's son or daughter (or descendant of either), stepson, stepdaughter, brother, sister, stepbrother, stepsister, father or mother (or ancestor of either), stepfather, stepmother, niece, nephew, aunt, uncle, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law or an individual whose principal place of abode was that of the taxpayer, who is a member of the taxpayer's household, and for whom the taxpayer provides over half of his or her support.

Current federal law allows an increased standard deduction if the taxpayer and/or the spouse are 65 years of age or blind. Federal law also allows taxpayers to claim exemptions for themselves, their spouses, and their dependents as deductions from AGI. The increased standard deduction varies depending on whether both the taxpayer and the spouse are 65 years of age or blind, while the exemption amount is $2,700 for 1998.

Current state law provides various exemption credits against tax, including a personal exemption and exemptions for dependents, blind persons and individuals 65 or older. Unlike federal law, these exemptions are not deductions from AGI but are a credit against taxes. The exemption amount for the personal exemption and exemptions for a blind person or an individual 65 or older is $70 for 1998. The exemption amount for a dependent is $253 for 1998.

Board Position:

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Department Director: **Gerald Goldberg** Date: **4/30/1999**

Current state law, under the Welfare and Institutions Code, defines "long-term care" as a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services addressing the health, social, and personal needs of individuals who have restricted self-care capabilities. Services must be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and mental well-being in the least restrictive environment with emphasis on seeking services alternatives to institutionalization. Services may be provided by formal or informal support systems, including a licensed nursing facility, adult residential care, residential facility for the elderly, or home and community based services, and may be continuous or intermittent.

Current federal and state tax law define “long-term care services” as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services required by a chronically ill individual, as defined. Maintenance and personal care services means any care the primary purpose of which is the provision of needed assistance to a chronically ill individual.

Under the PITL, this bill would allow a credit in an amount equal to an unspecified percent of the amount paid or incurred by a taxpayer for the long-term care of a family member of the taxpayer.

This bill defines:

- "family members" as the taxpayer, taxpayer's spouse and all individuals described as dependents in federal tax law; and
- "long-term care" as having the same meaning as described in the Welfare and Institutions Code.

This bill would provide that a taxpayer could carry over any excess credit until it is exhausted.

Since this credit does not specify otherwise, the general rules in state law applicable to the division of credits would apply, and this credit would not reduce regular tax below tentative minimum tax for purposes of alternative minimum tax.

Policy Considerations

To the extent that long-term care may qualify as a medical expense, this bill could allow a credit for the same expenses as used to claim a deduction. However, disallowing or reducing the deduction by the amount of the credit would create an adjustment, complicating the preparation of the state income tax return.

This bill does not limit the credit to family members living in or to care provided in this state.

This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, if a repeal date were added and the unlimited credit carryover allowed, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Implementation Considerations

The department has identified the following implementation considerations.

- This bill does not require the verification of the long-term care. The author may wish to consider requiring the long-term care facility or home care giver to provide the taxpayer with verification, specifying the taxpayer, the amount of money received to pay for the long-term care, the name of the individual receiving the long-term care, and time period covered.

- This bill uses a different definition for long-term care than that used in current federal and state tax law regarding the deductibility of long-term care services and long-term care insurance. These differences may confuse taxpayers and complicate implementation of this credit.

Department staff is available to assist in the resolution of these or any other considerations identified.

FISCAL IMPACT

Departmental Costs

With the resolution of the implementation considerations, this bill should not significantly impact the department's costs.

Tax Revenue Estimate

This bill does not specify a credit percentage. This estimate assumes a 10% credit. Eligible costs could include payments for nursing home care provided or) in-home care provided. This bill does not specify costs for long-term insurance, thus, this estimate does not reflect those costs.

Effective After January 1, 1999 (losses in millions)		
1999/2000	2000/2001	2001/2002
-$650	-$590	-$620

The estimate for the first fiscal year above includes all of the 1999 tax year impact plus 15% of the 2000 year impact.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

(1) Nursing Home Care Costs

Data for 1998 from MetLife Statistical Bulletin indicates average daily nursing home cost for California is $156 per day ($57,000) annually.

PERS (California) statistics indicates average nursing home care costs of $130 per day ($47,000 annually). The lower average is used above for the rule of thumb estimate.

Information for the nation indicates (U.S. National Center for Health Statistics): for 1994, 1.73 million nursing and related care facility resident patients were in the U. S.

For purposes of a revenue estimate for these payments, based on California's population relative to total population, 12% was attributed for California's share of the nation (1.73 million nationally x 12% attributed to California x $47,000 average annual cost for each individual credit x 10% credit percentage x one-third of credit amounts can be applied, on average, against available tax liabilities. This results in a revenue loss of $320 million.

(2) Home Care Costs

PERS (California) statistics indicates average home care cost of $20,000 annually.

Information for the nation indicates (U.S. National Center for Health Statistics): for 1994 there were 1.95 million home health and hospice care patients in the U. S.

For purposes of a revenue estimate for these payments, based on California's population relative to total population, 12% was attributed for California's share of the nation (1.95 million nationally x 12% attributed to California x $20,000 average annual cost for each individual credit x 10% credit percentage x 50% of credit amounts can be applied, on average, against available tax liabilities. This results in a revenue loss of $235 million.

BOARD POSITION

Pending.